

Farm Service Agency, USDA

§ 760.804

a 10 degree Fahrenheit difference in the average annual minimum temperature.

Value loss crop has the meaning assigned in part 1437 of this title.

Verifiable production record means:

(1) For quantity losses, evidence that is used to substantiate the amount of production reported and that can be verified by FSA through an independent source; or

(2) For quality losses, evidence that is used to substantiate the amount of production reported and that can be verified by FSA through an independent source including determined quality factors and the specific quantity covered by those factors.

Yield means unit of production, measured in bushels, pounds, or other unit of measure, per area of consideration, usually measured in acres.

§ 760.803 Eligibility.

(a) Participants will be eligible to receive disaster benefits under this part only if they incurred qualifying quantity or quality losses for the 2005, 2006, or 2007 crops, as further specified in this part, as a result of damaging weather or any related condition. Participants may not receive benefits with respect to volunteer stands of crops.

(b) Payments may be made for losses suffered by an eligible participant who, at the time of application, is a deceased individual or is a dissolved entity if a representative, who currently has authority to enter into a contract for the participant, signs the 2005, 2006, or 2007 Crop Disaster Program application. Participants must provide proof of the authority to sign legal documents for the deceased individual or dissolved entity. If a participant is now a dissolved general partnership or joint venture, all members of the general partnership or joint venture at the time of dissolution or their duly authorized representatives must sign the application for payment.

(c) As a condition to receive benefits under this part, the Participant must have been in compliance with the Highly Erodible Land Conservation and Wetland Conservation provisions of part 12 of this title for the 2005, 2006, or 2007 crop year, as applicable, and must not otherwise be precluded from receiving

benefits under parts 12 or 1400 of this title or any law.

§ 760.804 Time and method of application.

(a) The 2005, 2006, 2007 Crop Disaster Program application must be submitted on a completed FSA-840, or such other form designated for such application purpose by FSA, in the FSA county office in the participant's control county office before the close of business on a date that will be announced by the Deputy Administrator.

(b) Once signed by a participant, the application for benefits is considered to contain information and certifications of and pertaining to the participant regardless of who entered the information on the application.

(c) The participant requesting benefits under this program certifies the accuracy and truthfulness of the information provided in the application as well as any documentation filed with or in support of the application. All information is subject to verification by FSA. For example, as specified in § 760.818(f), the participant may be required to provide documentation to substantiate and validate quality standards and marketing contract prices. Refusal to allow FSA or any agency of the Department of Agriculture to verify any information provided will result in the participant's forfeiting eligibility under this program. Furnishing required information is voluntary; however without it, FSA is under no obligation to act on the application or approve benefits. Providing a false certification to the government is punishable by imprisonment, fines, and other penalties.

(d) FSA may require the participant to submit any additional information it deems necessary to implement or determine any eligibility provision of this part. For example, as specified in § 760.818(f), the participant may be required to provide documentation to substantiate and validate quality standards and marketing contract prices.

(e) The application submitted in accordance with paragraph (a) of this section is not considered valid and complete for issuance of payment under this part unless FSA determines all the

§ 760.805

applicable eligibility provisions have been satisfied and the participant has submitted all of following completed forms:

- (1) If Item 16 on FSA-840 is answered "YES," FSA-840M, Crop Disaster Program for Multiple Crop—Same Acreage Certification;
 - (2) CCC-502, Farm Operating Plan for Payment Eligibility;
 - (3) CCC-526, Payment Eligibility Average Adjusted Gross Income Certification;
 - (4) AD-1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation Certification; and
 - (5) FSA-578, Report of Acreage.
- (f) Application approval and payment by FSA does not relieve a participant from having to submit any form required, but not filed, according to paragraph (e) of this section.

§ 760.805 Limitations on payments and other benefits.

- (a) A participant may receive benefits for crop losses for only one of the 2005, 2006, or 2007 crop years as specified under this part.
- (b) Payments will not be made under this part for grazing losses.
- (c) Payments determined to be issued are considered due and payable not later than 60 days after a participant's application is completed with all information necessary for FSA to determine producer eligibility for benefits.
- (d) FSA may divide and classify crops based on loss susceptibility, yield, and other factors.
- (e) No person, as defined by part 1400 subpart B of this title, may receive more than a total of \$80,000 in disaster benefits under this part. In applying the \$80,000 per person payment limitation, regardless of whether 2005, 2006, or 2007 crop year benefits are at issue or sought, the most restrictive "person" determination for the participant in the years 2005, 2006, and 2007, will be used to limit benefits.
- (f) No participant may receive disaster benefits under this part in an amount that exceeds 95 percent of the value of the expected production for the relevant period as determined by FSA. Accordingly, the sum of the value of the crop not lost, if any; the disaster payment received under this part; and

7 CFR Ch. VII (1-1-10 Edition)

any crop insurance payment or payments received under the NAP for losses to the same crop, cannot exceed 95 percent of what the crop's value would have been if there had been no loss.

(g) An individual or entity whose adjusted gross income is in excess of \$2.5 million, as defined by and determined under part 1400 subpart G of this title, is not eligible to receive disaster benefits under this part.

(h) Any participant in a county eligible for either of the following programs must complete a duplicate benefits certification. If the participant received a payment authorized by either of the following, the amount of that payment will be reduced from the calculated 2005-2007 CDP payment:

- (1) The Hurricane Indemnity Program (subpart B of this part);
- (2) The Hurricane Disaster Programs (subparts D, E, F, and G of part 1416 of this title);
- (3) The 2005 Louisiana Sugarcane Hurricane Disaster Assistance Program; or
- (4) The 2005 Crop Florida Sugarcane Disaster Program.

§ 760.806 Crop eligibility requirements.

(a) A participant on a farm is eligible for assistance under this section with respect to losses to an insurable commodity or NAP if the participant:

(1) In the case of an insurable commodity, obtained a policy or plan of insurance under the Federal Crop Insurance Act for the crop incurring the losses; or

(2) In the case of a NAP covered crop, filed the required paperwork and paid the administrative fee by the applicable filing deadline, for the noninsurable commodity under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 for the crop incurring the losses.

(b) The reasons a participant either elected not to have coverage or did not have coverage mentioned in paragraphs (a)(1) or (2) of this section are not relevant to the determination of the participant's ineligibility under this section. In addition, such reasons for not having crop insurance coverage have no bearing for consideration under part 718, subpart D of this chapter.